

**AUG 07 2003**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

**CATHY A. CATTERSON  
U.S. COURT OF APPEALS**

ALVARO RODRIGO  
CIFUENTES-VILLATORO,

Petitioner,

v.

JOHN ASHCROFT, Attorney General,

Respondent.

No. 02-70444

INS No. A70-788-500

MEMORANDUM\*

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted October 7, 2002\*\*

Before: CHOY, FERGUSON, and BOOCHEVER, Circuit Judges.

Alvaro Rodrigo Cifuentes-Villatoro, a native and citizen of Guatemala,  
petitions for review of the Board of Immigration Appeals' ("BIA") decision

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\* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

\*\* This panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

dismissing his appeal of the immigration judge's ("IJ") denial of his application for asylum and withholding of removal. We have jurisdiction pursuant to 8 U.S.C. § 1252, and we deny the petition.

We review the BIA's determination that an applicant has not proven eligibility for asylum or withholding of removal for substantial evidence. Cardenas v. INS, 294 F.3d 1062, 1065 (9th Cir. 2002); Molina-Estrada v. INS, 293 F.3d 1089, 1093 (9th Cir. 2002). Therefore, we must uphold its decision unless Cifuentes-Villatoro shows that the evidence not only supports reversal, but compels it. Pedro-Mateo v. INS, 224 F.3d 1147, 1150 (9th Cir. 2000) (quoting INS v. Elias-Zacarias, 502 U.S. 478, 481 n. 1 (1992)).

The Attorney General has discretion to grant asylum to individuals who are unable or unwilling to return to their country of origin "because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion[.]" 8 U.S.C. § 1101(a)(42)(A); see also 8 U.S.C. § 1158(b).

Cifuentes-Villatoro asserts that he suffered past persecution and has a well-founded fear of future persecution on two grounds: his membership in the Guatemalan army and his political opinion. With respect to his claim of past persecution because of his membership in the Guatemalan army, this circuit has

held that the military is not a social group qualifying its current members for asylum eligibility. Arriaga-Barrientos v. INS, 937 F.2d 411, 414 (9th Cir. 1991); see also Cruz-Navarro v. INS, 232 F.3d 1024, 1029 (9th Cir. 2000). Although “fear of [future] reprisal from guerrillas on the part of an ex-[member of the military] is a type of political persecution[,]” Montecino v. INS, 915 F.2d 518, 520 (9th Cir. 1990), Cifuentes-Villatoro has not adduced “credible, direct, and specific evidence in the record of facts that would support a reasonable fear of persecution . . . .” Duarte de Guinac v. INS, 179 F.3d 1156, 1159 (9th Cir. 1999).

Furthermore, because Cifuentes-Villatoro presented no evidence that guerrillas attempted to recruit him based on his actual or imputed political beliefs, substantial evidence supports the BIA’s determination that he failed to establish past persecution or a well-founded fear of future persecution on account of political opinion. See Pedro-Mateo, 224 F.3d at 1151 (citing Elias-Zacarias, 502 U.S. at 482-83).

Cifuentes-Villatoro’s failure to meet the standard for asylum necessarily constitutes failure to meet the more stringent standard for withholding of removal. See Pedro-Mateo, 224 F.3d at 1150.

PETITION FOR REVIEW DENIED.